

Harmonization of Legal Policies Regulating Minimum Standards for Transportation of People on Electric Rail Trains

Erifendi Churniawan^{1*}, Atir R R Siti Kuswati², Windi Nopriyanto³

^{1,2,3} Politeknik Perkeretaapian Indonesia Madiun, Indonesia

*Email: erifendi@ppi.ac.id, atik@ppi.ac.id, windi@ppi.ac.id

ARTICLE INFO	ABSTRACT
<p>Keywords: Legal Policy, Regulation of Minimum Standards for Road Transport, Electric Railways.</p>	<p><i>There is disharmony in the Minister of Transportation Regulation on Minimum Train Services, which is disharmonious, as are the provisions in the Railway Traffic Regulation and the Railway Law. This can occur because each formulator of the Railway Law, Railway Traffic Regulation, and Minister of Transportation Regulation on Minimum Train Services is a different institution. This has the potential to cause disharmony in the legislation and affect its implementation, which is not optimal. This research discusses efforts to formulate legal harmonization so that the regulations in the Minister of Transportation of Minimum Train Services, the Railway Law, and the Railway Traffic Regulation can be in line and facilitate their implementation. This research is normative legal research. As a normative legal research, the main focus is on the analysis aspect of laws and regulations. The approaches used in this research are statutory approach and conceptual approach. The research results are legal disharmonization in the policy of setting the minimum standard of transportation of people on KRL disharmonization occurs vertically. The main factor that causes legal disharmony is the existence of sectoral ego in each agency. Therefore, the sectoral ego in each agency can be overcome by structured and coordinated coordination to ensure excellent and interrelated rules. The effort is to carry out vertical harmonization by involving various related agencies. This is to ensure that one rule and another rule have the same spirit and orientation so as not to cause problems in practice.</i></p>

INTRODUCTION

Trains are one of the most popular modes of transportation for Indonesians because of their safety, comfort, and time effectiveness (Mutmainnah, 2020). With the increasing public interest and trust in the Railway transportation mode, it is necessary to have arrangements related to the minimum transportation standards on the Railway, especially on Electric Rail Trains (KRL, *Kereta Rel Listrik*). Arrangements related to the minimum standard of transportation on the Railway are based on the Minister of Transportation Regulation No. 63 of 2019 concerning Minimum Service Standards for Transportation of People by Train, which is K.A. reference for infrastructure operators and operators of railway facilities in providing services to service users (Rusmiyah, 2022). The regulation embodies Government Regulation No. 61 of 2016 concerning Amendments to Government Regulation No. 72 2009 concerning Railway Traffic and Transportation (Government Regulation on Railway Traffic) (Indonesia, 2016). Furthermore, P.P. is present on RailwaP. Traffic is a further regulation of Law No. 23 of 2007 on Railways (Railway Law) (Rahmaningtyas, 2014).

Referring to the provisions of the minimum standard of transportation on trains based on the provisions of the Minister of Transportation Regulation on Minimum Train Services above, the Minister of Transportation Regulation on Minimum Train Services should base its provisions on the Railway Traffic Regulation and the Railway Law. The problem is that several technical provisions in the Minister of Transportation Regulation on Minimum Train Services could be more varied with the provisions in both the Railway Traffic Regulation and the Railway Law. This can occur because each formulator of the Railway Law, Railway Traffic Regulation, and Minister of Transportation Regulation on Minimum Train Services is a different institution. (Fellycia Lauwtania, 2023).

This can potentially cause disharmony in the laws and regulations and affect their implementation, which could be more optimal.

Based on the background above, the objectives of this study are to analyze the inconsistencies between the Minister of Transportation Regulation on Minimum Train Services, the Railway Traffic Regulation, and the Railway Law, and to propose solutions for achieving regulatory harmony. The benefits of this research include providing recommendations for policymakers to enhance the coherence and effectiveness of railway transportation regulations, ultimately improving service quality and safety for train passengers. Additionally, this study aims to contribute to the academic discourse on regulatory frameworks in transportation, offering insights into the challenges and best practices for harmonizing laws and regulations across different governing bodies.

METHOD

This research is normative legal research. As a normative legal research, its main focus is the analysis of laws and regulation (Marzuki, 2017). The approaches used in this research are statutory approach and conceptual approach. The statutory approach is the primary approach in this research because the focus of this research is on legal harmonization, where the analysis of laws and regulations is the most important thing. The conceptual approach in this research focuses on legal harmonization and the main characteristics of positive Law that must be certain and not contradict each other. The data used in this research is secondary data, namely laws and regulations, and literature sources.

Data sources in Law are referred to as legal materials. Primary data sources are obtained through direct interviews. Secondary data sources were obtained through conventional and digital literature reviews. Conventionally done through the library and digitally done online by accessing related journals. Legal research divides legal materials into three categories: primary, secondary, and non-legal. Primary legal materials include the Minister of Transportation Regulation on Minimum Train Services, Railway Traffic Regulation, and Railway Law. Secondary legal materials are books, journal articles, and other research results. Non-legal materials are language dictionaries. Data sources in Law are referred to as legal materials. Primary data sources were obtained through direct interviews. Secondary data sources were obtained through conventional and digital literature reviews. Conventionally done through the library and digitally done online by accessing related journals. Legal research divides legal materials into three categories: primary, secondary, and non-legal. Primary legal materials include the Minister of Transportation Regulation on Minimum Train Services, Railway Traffic Regulation, and Railway Law. Secondary legal materials are books, journal articles, and other research results. Non-legal materials are language dictionaries. Data or legal materials are presented qualitatively in the form of narratives and descriptions of the formulation of existing problems. Narratives and descriptions of the formulation of existing problems are then grouped per point to facilitate the analysis process. This research uses a qualitative data analysis method for normative legal aspects (juridical) through the descriptive analysis-prescriptive method. This analysis is carried out to provide legal solutions to various problems and legal issues.

RESULTS AND DISCUSSION

This study's results indicate a need for legal harmonization efforts related to regulating minimum standards for the transportation of people on KRL. The legal harmonization process is carried out preventively and repressively. Harmonization is prevented when legislation has yet to be formulated as legal policy. At the same time, repressive harmonization is carried out when legislation is official and has legal problems in practice or application.

Referring to the obstacles related to the existence of legal disharmony in regulating the minimum standards of transportation of people on KRL, there must be three aspects that are considered so that legal harmonization can be carried out optimally, namely: aspects of legislation, sectoral ego, and its application. In legislation, it is necessary to analyze vertical and horizontal harmonization comprehensively. In the aspect of the sectoral ego, understanding and efforts are needed to minimize the sectoral ego of each institution so as not to cause overlapping arrangements. In the application aspect, a positive law needs to be understood carefully and comprehensively so that it can be implemented optimally.

Problems of Legal Disharmony Occurring in Setting Minimum Standards for Transportation of People on Electric Rail Trains (KRL)

Legal harmonization is an effort to harmonize laws in a legal system. Legal harmonization is usually carried out in positive Law, in this case, legislation (Sulistiyawan, 2019). Legal harmonization of laws and regulations is

interpreted as an effort to harmonize, harmonize, and balance laws and regulations both on the substance of laws and regulations and on the formal aspects of laws and regulations (Safudin, 2020). The term legal harmonization in legal studies developed in 1992 in Germany and was oriented towards laws and government policies, especially between the central and regional governments, where there was often disharmony in laws and policies (Safudin, 2020).

Furthermore, L.M. Gandhi defines legal harmonization as an adjustment of laws and regulations, government decisions, and judges' decisions in a legal system based on legal principles (Fitryantica, 2019). Based on the description above, harmonization is a comprehensive series of efforts to legal products and draft legal products so that they are harmonious, appropriate, harmonious, and balanced in a legal system.

Legal harmonization can be done vertically or horizontally (MAA, 2020). Vertical legal harmonization is carried out by looking at the hierarchy of legal norms, which aims to prevent conflicts between lower and higher legal norms (Anggono, 2020). Horizontal legal harmonization is carried out by looking at the substance relevant or related to a statutory regulation that is equal and equal in position (Tresnadipangga et al., 2023).. This can mainly be seen in harmonizing laws that substantially regulate the same thing but have different orientations. In this case, the *lex specialis derogate legi general* principle is applied.

In addition, legal harmonization can also be carried out based on the drafting techniques of laws and regulations or aspects of drafting laws and regulations, which include various legal languages, forms of draft laws and regulations, arrangements related to special matters, and the framework of laws and regulations (Elcaputera et al., 2022). This confirms that harmonization is needed when there is legal disharmony, or even legal harmonization aims to prevent legal disharmony.

Referring to the above understanding, legal disharmonization in the policy of setting minimum standards for people's transportation on KRL is vertically disharmonized, namely the inconsistencies in the Minister of Transportation Regulation on Minimum Train Services, Railway Traffic Regulation, and Railway Law. This can be understood because different institutions make each legal product, so inconsistencies exist between rules. These legal harmonization problems require vertical legal harmonization efforts on the Minister of Transportation Regulation on Minimum Train Services, Railway Traffic Regulation, and Railway Law.

Factors Causing the Emergence of Legal Disharmony Occurring in Setting Minimum Standards for Transportation of People on Electric Rail Trains (KRL)

Legal disharmony in the Minister of Transportation Regulation on Minimum Train Services, Railway Traffic Regulation, and Railway Law is caused by several factors. L.M. Gandhi pL.M.des confirmation regarding the causes of legal disharmony, which include (Gandhi, 1995):

- a. Disharmony occurs between laws and regulations, both vertically and horizontally. This often happens because of the desire to produce a legal product but without being balanced with the harmonization process;
- b. The conflict between the Law and implementing regulations. It is sometimes found that the will of the Law is understood differently from the will of the implementing officials, so they issue implementing regulations that contradict the Law;
- c. Disharmony occurs between laws and regulations and court decisions. This is especially true in the judicial review authority exercised by the courts, both judicial review between the Law and the Constitution conducted by the Constitutional Court and judicial review conducted by the Supreme Court, which examines regulations under the Law with the Law;
- d. Policy differences between central and local governments; and
- e. The existence of ego sectoral between each agency. This is because each agency feels it is the most authorized to make a legal product, so there is no need to involve other agencies.

In relation to legal disharmonization that occurs in the Minister of Transportation Regulation on Minimum Train Services, Railway Traffic Regulation, and Railway Law, the main factor that causes legal disharmonization is the sectoral ego in each agency. Therefore, sectoral ego in each agency can be overcome by structured and coordinated coordination to ensure good and interrelated rules.

Legal Efforts That Can Be Done With the Existence of Legal Disharmony That Occurs in Setting Minimum Standards for Transportation of People on Electric Rail Trains (KRL)

Theoretically, several steps can be taken to overcome legal disharmony, including (Rokilah & Sulasno, 2021):

- a. Pay attention to the philosophical basis in legislation, especially by basing and testing legislation with the philosophical values contained in the reconsideration of the Indonesian nation, namely Pancasila;

- b. Taking into account the principles, substance, and formal aspects of the Constitution, namely the 1945 Constitution of the Republic of Indonesia. This is because the 1945 Constitution is the highest Law that tops the hierarchy of laws and regulations;
- c. Consistent use of relevant legal terms, definitions, and definitions;
- d. Seeing the relationship between a law and its substance and formal aspects both vertically and horizontally;
- e. Ensure the fulfillment of the basic order of laws and regulations and the orderly formation of laws and regulations, including the fulfillment of the principles in the formation of laws and regulations;
- f. The use of legal language that is appropriate, relevant, and based on legal drafting aspects as stipulated in Law No. 12/2011 on the Formation of Legislation and
- g. The use of specific legal methods in forming and drafting laws, such as the omnibus law/omnibus bill method and other methods.

Referring to some of the steps above related to legal disharmonization that occurs in the Minister of Transportation Regulation on Minimum Train Services, Railway Traffic Regulation, and Railway Law, the efforts made are to carry out vertical harmonization by involving various related agencies. This is to ensure that one rule and another rule have the same spirit and orientation so as not to cause problems in practice.

CONCLUSION

Based on the results of the research that has been done, it can be concluded as follows: Legal disharmonization in the policy of setting minimum standards for people's transportation on KRL occurs vertically, namely the inconsistency in the Minister of Transportation Regulation on Minimum Train Services, Railway Traffic Regulation, and Railway Law. This inconsistency arises because different institutions create each of these legal products, resulting in a lack of coherence between the regulations. These legal harmonization problems necessitate efforts for vertical legal harmonization among the Minister of Transportation Regulation on Minimum Train Services, Railway Traffic Regulation, and Railway Law. The primary factor contributing to legal disharmonization is the sectoral ego within each agency, leading to uncoordinated and fragmented rule-making. To address this issue, it is essential to overcome sectoral ego through structured and coordinated efforts to ensure that regulations are well-aligned and interrelated. This involves conducting vertical harmonization by involving various relevant agencies to guarantee that all regulations share a common spirit and orientation, thus preventing practical implementation problems. Therefore, achieving regulatory harmony requires comprehensive and collaborative efforts among different institutions to streamline and integrate their policies, ensuring coherent and effective regulations for railway transportation. This will ultimately improve service quality and safety for train passengers, fulfilling the research objectives and providing practical solutions for policy-makers.

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